

EXHIBIT B

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:)
)
SECURITIES INVESTOR)
PROTECTION CORPORATION,)
)
Plaintiff-Applicant,)
)
vs.) 08-01789 (SMB)
)
BERNARD L. MADOFF)
INVESTMENT SECURITIES, LLC,)
)
Defendant.)
)
)
In re:)
)
BERNARD L. MADOFF,)
)
Debtor.)
)

CONFIDENTIAL

Videotaped Deposition of BERNARD L. MADOFF, VOLUME IV, taken on behalf of the Customers, before K. Denise Neal, Registered Professional Reporter and Notary Public, at the Federal Correctional Institution, 3000 Old Highway 75, Butner, North Carolina, on the 9th day of November, 2017, commencing at 8:43 a.m.

* * * *

Page 626

1 Q. Do you remember how long it was?

2 A. A long time. Started in the morning and
3 went through lunch.

4 Q. Okay. I'm going to mark -- I'm going to
5 show you what's been marked as Exhibit --

6 MR. KRATENSTEIN: What number?

7 MS. FEIN: 20.

8 MS. CHAITMAN: Do you have a copy for
9 Peter?

10 MS. FEIN: Yeah.

11 (Trustee's Exhibit Number 20 was marked
12 for identification.)

13 Q. (By Ms. Chaitman) If you look at the
14 bottom of the first page there's a date listed,
15 investigation on 12-16-2008, the bottom of the first
16 page?

17 A. Yes.

18 Q. Does that sound about right when the
19 meeting took place that you remember?

20 A. Yes.

21 Q. Okay. So this would be the same week, a
22 few days after you confessed; right?

23 A. Correct.

24 Q. We're just going to take a look at a couple
25 of individual statements here.

Page 627

1 MS. CHAITMAN: I just want to put on the
2 record that I object to any questioning about this
3 document because, number one, it's obviously
4 inadmissible for good reasons. Number two, it's
5 redacted more than it's not redacted and it's
6 impossible to know what -- obviously, we have no
7 idea what's said in the redacted sections.

8 And I think for you to ask Mr. Madoff
9 about something that hasn't been redacted, assuming
10 this is even a legitimate document -- for example,
11 I'm sure that you're going to ask him about what
12 hasn't been redacted on page three, but it may be
13 that in the blacked out part underneath it, it
14 contradicts what's said and what's there.

15 MS. FEIN: Understood. If we had the
16 full, unredacted document, that would be our
17 preference as well.

18 MS. CHAITMAN: Right, but I think any
19 questioning about this document is a waste of time
20 because it's --

21 MS. FEIN: I understand your objection.

22 MS. CHAITMAN: Okay.

23 Q. (By Ms. Fein) If you turn to page seven of
24 the document, the pages are marked at the top.

25 A. Okay.

Page 628

1 Q. Do you see the first sentence?

2 A. When Madoff began a retail business in 19

3 -- yes.

4 Q. Uh-huh. Do you agree with that statement?

5 A. Yes.

6 MS. FEIN: Okay.

7 MR. GOLDMAN: Read that question back?

8 Q. (By Ms. Fein) Sure. The first statement,
9 Madoff began a retail business in about 1960. He
10 had about a dozen clients, all of whom were family
11 and friends. Do you agree with the statement?

12 MR. GOLDMAN: Well, I'm going to object to
13 it. It says it morphed into a fraud.

14 MS. FEIN: I didn't -- I didn't ask about
15 that sentence.

16 MR. KRATENSTEIN: First sentence, just
17 first sentence.

18 MR. GOLDMAN: Oh, I'm sorry.

19 MS. FEIN: I only asked about the first
20 sentence. Sorry.

21 MR. KRATENSTEIN: Do you want to reask the
22 question if he agrees with that sentence, the first
23 sentence?

24 Q. (By Ms. Fein) Sure. Mr. Madoff, do you
25 agree to the first sentence on page seven, that that

Page 629

1 is an accurate reflection of your business?

2 A. Madoff began a retail business in about
3 1960.

4 Q. Yes.

5 A. He had about a dozen clients, all of whom
6 were family and friends, yes.

7 Q. Do you recall making that statement at your
8 proffer meeting?

9 A. Yes.

10 Q. The next sentence after that, can you read
11 that?

12 MR. GOLDMAN: That's what I'm going to
13 object to. You know, this is a memorialization of
14 what someone thinks they heard. We don't know who
15 wrote it; okay? There are certain characterizations
16 in here such as that which are his conclusions or
17 her conclusions, whoever wrote it. And I think it's
18 unfair to ask him.

19 If there's something in here that you want
20 to ask him whether he actually said something, I
21 don't have an objection to that. And if you could
22 point to where he said it in the report, that's
23 fine; but I'm going to object to these
24 characterizations and then asking him whether those
25 are correct or not.

Page 630

1 MS. FEIN: I understand.

2 MR. GOLDMAN: Okay.

3 MS. FEIN: I understand. I'm going to ask
4 about the statements that are here.

5 MR. GOLDMAN: Okay.

6 Q. (By Ms. Fein) And I just want to really
7 know if you recall making the statements at the
8 meeting?

9 MR. GOLDMAN: I want to make sure, though,
10 when you ask him did he make the statement and if
11 he -- I don't want -- what I object to is the
12 characterization that he's made the statement. I
13 haven't seen quotation marks anywhere in here that
14 Mr. Madoff said this.

15 MS. FEIN: Right.

16 MR. GOLDMAN: If you can point to that and
17 ask him, that's fine, but the other -- asking him
18 about someone else's conclusions I just think is
19 inappropriate.

20 MS. FEIN: Okay. Well, if I -- I don't
21 plan to ask --

22 MR. GOLDMAN: And he'll answer
23 accordingly. Okay.

24 MS. FEIN: -- much more about that. It's
25 about whether he recalls making the statements that

Page 631

1 are here.

2 MR. GOLDMAN: Okay.

3 Q. (By Ms. Fein) So if you want to read the
4 text on page seven. You don't have to read it out
5 loud. You can read it to yourself, but I did want
6 to ask. So the statement the retail business
7 morphed into a fraud as time went by, do you recall
8 making that statement at the proffer meeting?

9 A. You're asking if I said in 1962 all the
10 clients lost virtually their entire investment?

11 Q. No. The sentence before that, the retail
12 business morphed into a fraud as time went by.

13 MR. GOLDMAN: Do you recall saying that?

14 THE WITNESS: I don't remember saying
15 that.

16 MR. FEIN: Okay.

17 MR. GOLDMAN: Okay. Let's go on.

18 Q. (By Ms. Fein) Do you -- if you look down a
19 bit on the page, so it refers to in 1962 Madoff's
20 retail business was wiped out in the new issue
21 collapse. And the following sentence, all his
22 clients lost virtually their entire investment,
23 which amounted to a total of \$30,000. Madoff felt
24 he had to pay them back, so he borrowed \$30,000 from
25 his father-in-law to do so. Do you recall making

Page 632

1 that statement?

2 A. Yes.

3 Q. His father-in-law was not pleased by this
4 development. Madoff was able to pay all these
5 clients back and start the market making business.

6 Do you recall making that statement?

7 A. Yes.

8 Q. At about this time he took in new retail
9 clients. These clients were also family and
10 friends. Do you recall making that statement?

11 A. Yes.

12 Q. He began to falsely report returns of
13 30 percent, 40 percent annual to these customers.
14 Do you recall making that statement?

15 A. Wait a minute. After this time he took in
16 new retail clients. He had to falsely -- no. I did
17 not say he had to falsely report returns of 30 to
18 40 percent. Definitely didn't ever say that.

19 Q. Okay. If you look at page four of the
20 document, go back a couple of pages, my next
21 questions are on page four.

22 A. Okay. I'm still looking at that last
23 question --

24 Q. Sure.

25 A. -- because I can't imagine having said

Page 633

1 that.

2 Q. Okay.

3 A. Where are we now?

4 Q. Page four.

5 A. So I have to go back?

6 Q. Yes.

7 A. Okay.

8 Q. I think it's one more back. It's on the
9 back, yep. There. The first sentence that is
10 unredacted, the fraud entailed Madoff taking in
11 funds from investors, holding those funds and paying
12 them out to investors seeking redemptions. Do you
13 recall making that statement?

14 MS. CHAITMAN: I would suggest that you
15 read through the whole unredacted portion, Bernie,
16 before you respond.

17 THE WITNESS: The fraud entailed Madoff
18 taking in funds from investors, holding those funds
19 and paying them out to investors seeking
20 redemptions, essentially a Ponzi scheme.

21 MR. GOLDMAN: See, the other part of the
22 problem with that is that we don't have any dates.

23 THE WITNESS: Yeah.

24 MR. GOLDMAN: I don't know when the dates
25 are.

Page 634

1 MS. FEIN: I'm just asking if he remembers
2 making the statements. I can't make any. I was not
3 involved in -- I was not -- yeah.

4 MR. GOLDMAN: So I just think it's unfair
5 ask him that question.

6 MS. FEIN: I'm asking if he recalls the
7 statements that are here and that's really it.

8 MR. GOLDMAN: Okay, all right.

9 THE WITNESS: Let's put it this way.
10 Depending upon what period of time they were talking
11 about, I could have made that statement because I'd
12 made that statement a number of times since then;
13 but I certainly was not talking about it, you know,
14 in the early periods of time because I was very
15 clear and forthright in everything I said at the
16 proffer agreement and at the other meeting.

17 And nothing has changed in my story. So I
18 -- just the same reason I would not have mentioned
19 anything about the 30 or 40 percent, I certainly
20 could have said that, for example, in 1980s my
21 clients were making 30 or 40 percent because that
22 was what was common at that time when interest rates
23 were 12 percent at that period of time.

24 So I can tell you that referring to this
25 proffer agreement, it was an absurdity. The

Page 635

1 questions that were asked by me, by people who I
2 knew knew the answer, you know, and, you know, it
3 was obvious that that they were trying to paint a
4 picture that was not the case. And I'm still pissed
5 off by it, quite frankly.

6 Q. I'm going to ask you about a couple more
7 questions.

8 MR. GOLDMAN: Okay. Ask the question.

9 Q. (By Ms. Fein) So the next sentence, you
10 just read the first two sentences. The next
11 sentence, customers received both monthly account
12 statements and trade confirmations reflecting trades
13 that never took place. Do you recall making that
14 statement at the proffer meeting?

15 A. No.

16 Q. Madoff began engaging in fraud in earnest
17 in the 1970s. The 1980s saw a large expansion in
18 the retail, i.e., fraudulent portion of the
19 business. Do you recall making that statement at
20 the meeting?

21 A. Let me go back and read it. I certainly
22 never said that fraud took place in the '70s because
23 it did not. In the 1980s there was a large
24 expansion in the retail business and in the, i.e.,
25 parentheses, fraudulent. I assume that's not my

Page 636

1 statement. That's the interpretation statement
2 because why would they -- the fact that if I
3 understand English properly, when someone says with
4 parentheses, i.e., fraudulent, that's someone's
5 interpretation of what he claims I said was
6 fraudulent.

7 Q. Okay.

8 A. Which -- so I never said it was fraudulent.

9 Q. I'm just asking about your recollection.
10 Okay.

11 A. My recollection was I explained what was
12 happening in the business, but as far as the dates
13 are concerned, you know, I do not recall ever saying
14 that.

15 Q. Okay. The next sentence, as there was no
16 actual trading, nothing cleared through DTCC or any
17 clearing firm and the only records of the purported
18 trades are the paper confirmations. Do you recall
19 saying that at the proffer meeting?

20 A. No. I do not.

21 Q. If you turn back one page to page three,
22 the second paragraph on page three begins when
23 Madoff first began the retail business. Do you see
24 that sentence?

25 A. Uh-huh.

1 Q. Okay. The statement when Madoff first
2 began the retail business he did initially engage in
3 some actual trades. Soon, however, he began to
4 engage in fraud as to the entire retail business.
5 Do you recall making that statement?

6 A. No. Again, I assume if I'm reading this
7 correctly, this is somebody interpreting what I
8 said.

9 Q. Understood. Do you recall saying this at
10 the proffer meeting, though? I'm not saying that
11 it's verbatim. I'm asking if you recall discussing
12 this?

13 A. I remember discussing the fact the business
14 was small and also that I started -- I started a
15 retail business, discussing trade position, yes.
16 Was paying ridiculously high returns, no. I never
17 said that because they were not --

18 Q. I'm only talking about the second
19 paragraph. I'm not asking about the first
20 paragraph.

21 A. Okay. When Madoff first began the retail
22 business, he initially engaged in some actual
23 trades. Again, that's someone interpreting what I
24 said. Began to engage in the fraud, no. Virtually
25 the entire life of the retail business was simply

Page 638

1 not trade. No, I don't recall saying this.

2 Q. Okay. And you were just reading the last
3 sentence on page three that's unredacted, for
4 virtually the entire life of the retail business?
5 Is that what you were referring to?

6 A. Not during -- not during an earlier period.
7 I was referring -- if I was saying that, I was
8 referring to post-'92 period.

9 Q. When you say if I was saying that, you mean
10 if you said --

11 A. What I'm saying is that I never would have
12 said, you know, anything other than what I always
13 had said, that the fraud began in, you know, in the
14 post-'90 period. So I don't know -- and I have a
15 pretty good memory, so I do not remember saying
16 anything like that.

17 MR. GOLDMAN: Amanda, this is a
18 memorialization of the proffer on the 16th? Is that
19 what it is?

20 MS. FEIN: Yes.

21 MR. GOLDMAN: Okay.

22 Q. (By Ms. Fein) You mentioned that it made
23 you angry to think about this meeting somewhat;
24 right?

25 A. Excuse me?

Page 639

1 Q. You mentioned that it made you kind of
2 angry to think about this meeting; right?

3 MR. KRATENSTEIN: Object to form.

4 THE WITNESS: I'm angry because there were
5 interpretations here of what I said that were --
6 were not true. I was very clear about what I said
7 and I was very forthright what I said. I would have
8 no reason to change that after the fact.

9 And the -- the way this -- what happened
10 at this meeting was a lot of the -- a lot of this
11 was someone asking me questions like saying so this
12 is what happened? And I had to go -- had to answer
13 back and say no, this is -- that is not what
14 happened. And they were asking me questions which
15 to me sounded totally ridiculous.

16 And as a matter of fact, I do remember
17 specifically turning to the two SEC people were
18 there who were very well aware of me and my business
19 and I looked at them and said help me out here. I
20 mean, do you really expect me to answer these
21 questions, explain what is a short sale, what does a
22 market maker do?

23 And it was like, you know, a smoking gun
24 type of thing. And yeah, I was pissed off at it
25 because I knew, you know, that it made no sense.

Page 640

1 And they were embarrassed when I turned and asked
2 them. I mean, for someone who was a senior person
3 at the SEC to sit there, you know, looking very
4 quiet and sheepish when Marc Litt, who knows nothing
5 at all, who is the prosecutor, about the securities
6 business or at least claimed not to know, you know,
7 asked me what is a short sale, what does a market
8 maker do? You know, so you sold stock to a customer
9 that you didn't own?

10 Q. (By Ms. Fein) So the SEC -- you're saying
11 and the SEC people in the room knew you. They knew
12 of your reputation?

13 A. Of course. There was no one in the
14 industry that didn't know me, you know, at that
15 time. You know, so --

16 Q. Yeah. Well, you had a very good reputation
17 in the industry; right?

18 A. Before I -- before this fiasco, yes, but it
19 was in every aspect of the industry. So it was --
20 it just -- it infuriated me when David went through
21 this theater the other day. So did the SEC lie?
22 Did the FBI lie he said? I said I didn't say that
23 they lied. I said they misinterpreted, you know,
24 what I said or maybe they just don't understand
25 anything.

Page 641

1 Q. Well, the statements, I won't represent
2 everything that we looked at, but you'll agree that
3 some of the statements we looked at didn't say
4 anything about market making certainly or short
5 sales; right?

6 MR. GOLDMAN: We don't know that because
7 so much is redacted.

8 MS. FEIN: I'm saying just the statements
9 that we looked at.

10 MS. CHAITMAN: But it's a meaningless
11 question due to the fact that 90 percent of it is
12 redacted.

13 MS. FEIN: If you want to object to the
14 question, you can object to the question.

15 MR. KRATENSTEIN: Objection.

16 THE WITNESS: Yes. I mean, to me this
17 document is nothing. You know, it's just -- look,
18 I've always felt that this -- you know, this whole
19 thing, the GAO report -- not the GAO report. I had
20 no problem with the GAO report. I had a problem
21 with Dubinsky's report and Picard.

22 Picard has made a whole series of
23 statements which the GAO report, his own report
24 proved totally, you know, false, like the firm used
25 it as a piggy bank, that I never made any money, the